

**INTER-OFFICE MEMORANDUM
PRINCE GEORGE'S COUNTY, MARYLAND**

ZONING HEARING EXAMINER OFFICE

June 8, 2023

TO: Jackie Brown, Director
Planning, Housing and Economic Development Committee

FROM: Maurene Epps McNeil
Chief Zoning Hearing Examiner

Joyce Nichols
Zoning Hearing Examiner

RE: CB-54-2023 Draft 2

Thank you for the opportunity to review the above-referenced bill. As drafted it raises the following concerns.

The revisions to Section 27-3406 in Draft 2 require the Planning Director to include a summary of the objections and arguments made by the opposition that are relevant to the review standards applicable to the application. "Relevancy" is a legal finding to be made by the trier of fact. It cannot be made by the Planning Director, who may or may not be an attorney, and is not the trier of fact. The revisions also require the Planning Director to summarize objections and arguments that are *not* relevant to the application but might be relevant to other approvals. Since the trier of fact may only admit evidence that is relevant to the application under consideration, it would be improper to require the Planning Director to include the arguments/objections of the opposition on some other request.

Similar revisions were added to Section 27-3408. The trier of fact must also include a separate summary of the oral and written testimony submitted by the opposition that is relevant to the review standards. The Zoning Hearing Examiners currently discuss all oral and written testimony of all witnesses, although we may not always mention the names of those testifying for the sake of brevity. We are not opposed to this language, (except for the requirement that we only do this for the opposition.) We are opposed to the revision that requires a summary of objections and arguments made by the opposition that is not relevant to the review standards for the application because we

are required to only consider relevant evidence and because we only have jurisdiction to hear the particular application pending before us.

In closing, the bill, as drafted, might be confusing and could lead the parties to believe they have the right to put in evidence that is not within the parameters of the trier of fact's jurisdiction or that is not relevant and cannot, therefore, be the basis for the ultimate decision/recommendation.